IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3440 of 2001

For Approval and Signature:
HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VISNAGAR MUNCIPALITY - Petitioner(s)
Versus
JITENDRAKUMAR BABULAL BAROT - Respondent(s)

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Appearance :
MS VIJYA LAXMI for Petitioner(s) : 1,
MR AJ SHASTRI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 17/07/2007

ORAL JUDGMENT

1. Heard the learned counsel for the respective parties.

2. The petitioner - Visnagar Municipality, being aggrieved by the award dtd.4/12/1997 passed by the Labour Court,

Kalol in Reference (LCK) No.194 of 1988, is before this Court with a submission that the learned Court below was absolutely unjustified in directing reinstatement of the workman with 100% back wages.

3. It is submitted by the learned counsel for the petitioner that in absence of the evidence that the workman had worked for 240 or more days in 12 calender months preceding the date of illegal retrenchment, the learned court below could not hold that the workman was entitled to reinstatement. It was also submitted that present was not a case for award of 100% back wages.

4. Learned counsel for the respondent, however, submitted that the evidence available on the record would clearly establish and persuade the learned judge to record a finding that right from 1/11/1983 upto 12/10/1987, the workman had worked, which would mean that he had worked for more than 240 days in 12 calender months preceding the date of illegal retrenchment. He submits that present is a fit case where 100% back wages should have been awarded.

5. The learned court below, after appreciating evidence, has recorded a finding that the workman had worked continuously for the period between 1/11/1983 and

12/101987. If such is the finding based on appreciation of evidence, then, such finding would bind this Court in its jurisdiction under Article 227 of the Constitution of India.

6. So far as the award of the back wages is concerned, in the opinion of this Court, 100% back wages from the date of removal upto the date of filing of the Reference could not be awarded. The petitioner had approached the Labour Cout almost after one year of his removal and therefore, for the period between removal and the Reference, he would not be entitled to anything beyond 50% back wages.
7. Barring interference in the above award relating to back wages, I find no reason to interfere.
8. The petition to the extent indicated above is allowed. Rule is made absolute accordingly. No costs.

(R.S. GARG, J.)

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